

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 4150	Department Department of Managed Health Care	Priority No. 6
Budget Request Name 4150-105-BCP-BR-2016-GB		Program 3870-Health Plan Program	Subprogram

Budget Request Description
Large Group Rate Review (SB 546)

Budget Request Summary

The Department of Managed Health Care (DMHC) requests 4.0 permanent positions and \$682,000 for FY 2016-17 and \$644,000 for FY 2017-18 and ongoing to address the increased workload resulting from the implementation of SB 546 (Chapter 801, Statutes of 2015).

This request includes \$106,000 for FY 2016-17 and \$100,000 for FY 2017-18 and ongoing for contractor costs.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.
☐ FSR ☐ SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Jennifer Clark, CFO	Date January 4, 2016	Reviewed By <i>Camanda McSaggett</i>	Date 1-4-2016
<i>for: [Signature]</i> Department Director	Date 1/4/2016	Agency Secretary <i>[Signature]</i>	Date 1-6-16

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☒ Workload Budget per Government Code 13308.05

PPBA <i>[Signature]</i>	Date submitted to the Legislature
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Analysis of Problem

A. Budget Request Summary

The DMHC requests 4.0 permanent positions and \$682,000 for FY 2016-17 and \$644,000 for FY 2017-18 and ongoing to address the increased workload resulting from the implementation of SB 546 (Chapter 801, Statutes of 2015). The requested positions are as follows:

Program/Classification	FY 2016-17 & ongoing
Office of Legal Services (OLS)	
Attorney III	1.0
Staff Services Analyst	1.0
Legal Secretary	1.0
Office of Financial Review (OFR)	
Associate Life Actuary	1.0
TOTAL	4.0

This request includes \$106,000 for FY 2016-17 and \$100,000 for FY 2017-18 and ongoing for contractor costs. In FY 2016-17, contractor costs consist of \$6,000 for transcription services and \$100,000 for actuarial consulting. In FY 2017-18 and ongoing, the contractor costs are for actuarial consulting.

B. Background/History

Resource History (Dollars in thousands)

Program Budget	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Authorized Expenditures	There are no SB 546 authorized expenditures to date.				
Actual Expenditures					
Revenues					
Authorized Positions					
Filled Positions					
Vacancies					

Workload History

Workload Measure	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
N/A						

The Patient Protection and Affordable Care Act (ACA) requires rate review of individual and small group rate filings, but exempts large group rate filings. Health plans set rates for large groups in one of two ways. For a "larger" large group – a group with more than 500 covered lives (and in some cases more than 1,000 lives) – a health plan may base rates entirely on the claims experience of that group. For a "smaller" large group – a large group with less than 500 covered lives – a health plan would set rates using a formula comprised of a standard risk for all large employers (e.g., the base rate), additional factors that affect the base rate that are specific to that employer group (e.g., geographic region, industry, etc.), and the claims experience of the specific employer group.

Under Section 2794 of the federal Public Health Service Act (PHSA), as added by the ACA, health plans must file a justification for an unreasonable premium rate increase, prior to implementation, and publicly disclose the information. As required by Section 154.101 of Title 45 of the Code of Federal Regulations, a rate increase is subject to review if it is 10 percent or more for a 12-month period (or a more stringent standard set by the state). However, under the May 23, 2011, Rate Increase Disclosure and Review Final Rule (Final Rule), this requirement applies only to non-grandfathered individual and small group contracts and does not apply to large group contracts. The U.S. Department of Health and

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Human Services (HHS), the federal agency implementing the ACA's rate review requirements, determined large group rate review unnecessary because large groups are sophisticated purchasers and the premiums for most large groups are experience rated, based on the group's own claims experience.

In 2010, SB 1163 (Leno, Chapter 661, Statutes of 2010) implemented the ACA's rate review provisions in California. These provisions require health plans to file individual and small group rate changes 60 days prior to implementation and submit justification for an unreasonable rate increase, as defined by the ACA. SB 1163 went beyond federal law by requiring plans to file any rate change for unreasonable rate increases for large group contracts 60 days prior to implementation. However, the Final Rule, which was published after SB 1163 was enacted, does not apply to the large group market nor does it contain a definition for unreasonable rate increase that applies to large group contracts.

Also related to California's rate review is SB 1182 (Leno, Chapter 577, Statutes of 2014). Under SB 1182, health plans and health insurers must annually provide de-identified claims data at no charge to a large group purchaser that requests the information and meets specified conditions. This data is restricted to: (1) large group purchasers with an enrollment of more than 1,000 covered lives, with at least 500 covered lives enrolled with the plan or insurer providing the claims data, or (2) multi-employer trusts with an enrollment of more than 500 covered lives, with at least 250 covered lives enrolled in the plan providing the claims data. The threshold is set at 1,000 and 500 covered lives because there must be a sufficient number of covered lives to de-identify the claims information to protect the confidential medical information of individuals.

SB 546 establishes additional rate review requirements for the large group market. These requirements include:

- Effective on or before October 1, 2016, and annually thereafter, health plans must file the following information aggregated for the specific health plan's entire large group market:
 - Weighted average increase for all large group benefit designs during the preceding calendar year;
 - Number and percentage of rate changes, as specified;
 - Factors affecting the base rate and actuarial basis for those factors, as specified;
 - Plan's overall annual medical trend factor assumptions for all benefits and by aggregate benefit category;
 - Amount of the projected trend separately attributable to the use of services, price inflation, fees, and risk for annual policy trends by aggregate benefit category;
 - Comparison of the aggregate per member per month costs over the prior five year period by specific category;
 - Changes in enrollee cost sharing, changes in enrollee benefits, and quality improvement efforts over the prior year; and
 - Number of products covered by the information that incurred the excise tax. (The excise tax, otherwise known as the "Cadillac tax," refers to the requirement in the ACA that, effective for tax years after December 31, 2017, imposes a 40 percent federal tax on the aggregate cost of employer-sponsored coverage exceeding a statutory limit; \$10,200 for individual coverage and \$27,500 for self and spouse or family coverage.)

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- DMHC must conduct an annual public meeting regarding large group rates within three months of posting the aggregate information on DMHC's website to allow a public discussion of the reasons for the changes in the rates, benefits, and cost sharing in the large group market.
- Health plans must provide a written notice to a large group 60 days prior to a premium rate or change in coverage that includes the following:
 - Whether the proposed rate is greater than the average rate increase for individual market products negotiated by the California Health Benefit Exchange (Covered California) for the most recent calendar year for which the rates are final;
 - Whether the proposed rate is greater than the average rate negotiated by CalPERS for the most recent calendar year for which the rates are final; and
 - Whether the rate change includes any portion of the excise tax paid by the health plan.

C. State Level Considerations

This request provides the additional resources necessary to ensure the DMHC can address the additional ongoing workload resulting from the implementation of SB 546.

SB 546 imposes requirements similar to those identified for the DMHC on the California Department of Insurance (CDI).

D. Justification

The DMHC licenses and regulates health plans that provide full-service and specialty services to more than 25 million Californians. The DMHC regulates health plans under the provisions of the Knox Keene Health Care Service Plan Act of 1975, as amended. To meet its mission of protecting consumer health care rights and ensuring a stable health care delivery system, the DMHC resolves grievances; conducts onsite medical surveys and financial exams; and reviews and approves plan contracts, disclosures, and vendor arrangements.

In 2014, there were 8,872,834 enrollees in large group health plans regulated by the DMHC and there are currently 19 health plans participating in the large group market. Provisions of SB 546 require the DMHC to analyze data submitted by these health plans and conduct an annual public meeting to facilitate discussion around the changes in rates, benefits, and cost sharing in the large group market.

Office of Legal Services (OLS)

OLS conducts legislative and legal analyses for the DMHC; leads rulemaking activities, including pre-notice stakeholder engagement, research and analysis, drafts regulatory language, conducts public hearings, responds to comments, and files regulation package(s) with the Office of Administrative Law; and responds to Public Records Act and Information Practices Act requests. To perform the additional ongoing workload required by SB 546, OLS requests the following permanent positions:

1.0 Attorney III

This position will be responsible for the promulgation of regulations, completion of legal memoranda, and review of legal questions related to SB 546. Reviewing legal questions encompasses all tasks necessary to compose the final determination and presenting the information to impacted or requesting divisions. This position will also be responsible for managing the annual public meetings required by SB 546.

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1.0 Staff Services Analyst (SSA)

This position will provide research and analytical support to the Attorney III for tasks associated with SB 546, such as promulgation of regulations, drafting/filing of legal memoranda, and assisting with the dissemination of final determinations to other impacted DMHC programs.

1.0 Legal Secretary

This position will assist the Attorney III and SSA with tasks associated with SB 546, such as promulgation of regulations and drafting/filing of legal memoranda. This position also will provide administrative support, including coordination of annual public meetings related to large group markets required by SB 546.

OLS anticipates \$6,000 in contract costs for FY 2016-17 to provide transcription services for the initial public meeting.

Office of Financial Review (OFR)

OFR monitors and evaluates the financial viability of health plans to ensure continued access to health care services for the enrollees/patients of California. This is accomplished by reviewing financial statements; analyzing financial arrangements and other information submitted as part of the licensing, material modification, and amendment process; and performing routine and non-routine examinations.

In order to perform the additional ongoing workload involved with reviewing health plan compliance with SB 546 as part of the routine examination process, OFR is requesting the following permanent position:

1.0 Associate Life Actuary

This position will be responsible for reviewing and analyzing the data submitted by the large group health plans pursuant to SB 546.

OFR anticipates \$100,000 in consultant contract costs for FY 2016-17 and ongoing to perform actuarial services in conjunction with OFR staff.

E. Outcomes and Accountability

This proposal is intended to provide the resources necessary to ensure the DMHC can address the increased workload resulting from the passage of SB 546.

Projected Outcomes

Workload Measure	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
Office of Legal Services (OLS)						
Conduct legal research and policy analysis. Includes reviewing legal questions, gathering data and supporting documentation, staff coordination, reviewing applicable law, gathering legal references, crafting position, drafting memos, briefing management, and presenting final determination to impacted staff. (Attorney III)	0	6	6	6	6	6
Promulgation of one regulation package. Includes conducting stakeholder meetings, capturing feedback, research and analyze policy concerns, draft proposed regulation, draft APA documents, hold public hearings, summarize comments, analyze and respond to comments, and process regulation through formal rulemaking process. (All)	0	0	1	0	0	0

Analysis of Problem

Assist Attorney III with research and analysis of various documents and tasks associated with SB 546. (SSA and Legal Secretary)	0	30	30	30	30	30
Arrange and manage public meetings required by SB 546: process and draft contract for vendors, arrange equipment, and draft and manage facility requests. (Attorney III and Legal Secretary)	0	1	1	1	1	1
Office of Financial Review (OFR)						
Prepare for annual public hearings. Includes preparation of summary reports and other presentation materials.	0	19	19	19	19	19
Review and analyze large group health plan data required by SB 546 on annual-basis. Includes the review of weighted-average rate increases, reasonableness compared to Covered California and CalPERS rate increases, and eligibility for excise tax.	0	19	19	19	19	19

F. Analysis of All Feasible Alternatives

Alternative 1: Approve DMHC's request for 4.0 permanent positions and \$682,000 for FY 2016-17 and \$644,000 for FY 2017-18 and ongoing to address the increased workload resulting from the implementation of SB 546 (Chapter 801, Statutes of 2015).

This request includes \$106,000 for FY 2016-17 and \$100,000 for FY 2017-18 and ongoing for contractor costs.

Pros:

- DMHC will have the necessary resources to implement the provisions of SB 546.

Cons:

- Increases the size of State government and expenditures.

Alternative 2: Approve the request at a lower level.

Pros:

- Provides minimal resources to meet all the provisions of SB 546.

Cons:

- Would cause delays in implementing the requirements of SB 546.
- Less positions and funding would result in the redirection of staff resources in order to accomplish the necessary tasks/activities associated with SB 546. However, DMHC staff is already at capacity and this would add to existing backlogs in other areas.

Alternative 3: Deny the request in which case DMHC will have to redirect existing resources in entirety.

Pros:

- Does not increase the size of State government or expenditures.

Cons:

- The Department may not fulfill all requirements mandated by SB 546.
- Will create a backlog in other areas of the Department's responsibilities.

Analysis of Problem

G. Implementation Plan

The 4.0 positions requested will be effective July 1, 2016. DMHC will start recruitment in late FY 2015-16 to ensure these positions are filled by that date.

H. Supplemental Information

This proposal will be funded through annual assessments of the health plans that are regulated by the DMHC. The fiscal impact of this request to full service health plans is less than \$0.02 per enrollee.

I. Recommendation

Alternative 1: Approve DMHC's request for 4.0 permanent positions and \$682,000 for FY 2016-17 and \$644,000 for FY 2017-18 and ongoing to address the increased workload resulting from the implementation of SB 546 (Chapter 801, Statutes of 2015).

This request includes \$106,000 for FY 2016-17 and \$100,000 for FY 2017-18 and ongoing for contractor costs.

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BCP Fiscal Detail Sheet

BCP Title: Large Group Rate Review (SB 546)

DP Name: 4150-105-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	4.0	4.0	4.0	4.0	4.0
Total Positions	0.0	4.0	4.0	4.0	4.0	4.0
Salaries and Wages						
Earnings - Permanent	0	300	300	300	300	300
Total Salaries and Wages	\$0	\$300	\$300	\$300	\$300	\$300
Total Staff Benefits	0	176	176	176	176	176
Total Personal Services	\$0	\$476	\$476	\$476	\$476	\$476
Operating Expenses and Equipment						
5301 - General Expense	0	40	8	8	8	8
5302 - Printing	0	4	4	4	4	4
5304 - Communications	0	4	4	4	4	4
5320 - Travel: In-State	0	12	12	12	12	12
5322 - Training	0	4	4	4	4	4
5324 - Facilities Operation	0	36	36	36	36	36
5340 - Consulting and Professional Services - External	0	100	100	100	100	100
5340 - Consulting and Professional Services - Interdepartmental	0	6	0	0	0	0
Total Operating Expenses and Equipment	\$0	\$206	\$168	\$168	\$168	\$168
Total Budget Request	\$0	\$682	\$644	\$644	\$644	\$644

Fund Summary

Fund Source - State Operations						
0933 - Managed Care Fund	0	682	644	644	644	644
Total State Operations Expenditures	\$0	\$682	\$644	\$644	\$644	\$644
Total All Funds	\$0	\$682	\$644	\$644	\$644	\$644

Program Summary

Program Funding						
3870 - Health Plan Program	0	682	644	644	644	644
Total All Programs	\$0	\$682	\$644	\$644	\$644	\$644

Personal Services Details

			Salary Information								
Positions			Min	Mid	Max	CY	BY	BY+1	BY+2	BY+3	BY+4
1282	-	Legal Secty (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
5157	-	Staff Svcs Analyst (Gen) (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
5795	-	Atty III (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
6089	-	Assoc Life Actuary (Eff. 07-01-2016)				0.0	1.0	1.0	1.0	1.0	1.0
Total Positions						0.0	4.0	4.0	4.0	4.0	4.0
Salaries and Wages			CY	BY	BY+1	BY+2	BY+3	BY+4			
1282	-	Legal Secty (Eff. 07-01-2016)	0	44	44	44	44	44	44	44	44
5157	-	Staff Svcs Analyst (Gen) (Eff. 07-01-2016)	0	47	47	47	47	47	47	47	47
5795	-	Atty III (Eff. 07-01-2016)	0	110	110	110	110	110	110	110	110
6089	-	Assoc Life Actuary (Eff. 07-01-2016)	0	99	99	99	99	99	99	99	99
Total Salaries and Wages			\$0	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300
Staff Benefits											
5150350	-	Health Insurance	0	78	78	78	78	78	78	78	78
5150500	-	OASDI	0	23	23	23	23	23	23	23	23
5150630	-	Retirement - Public Employees - Miscellaneous	0	75	75	75	75	75	75	75	75
Total Staff Benefits			\$0	\$176	\$176	\$176	\$176	\$176	\$176	\$176	\$176
Total Personal Services			\$0	\$476	\$476	\$476	\$476	\$476	\$476	\$476	\$476